



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3432

Introduced 2/27/2007, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

New Act
625 ILCS 5/13B-80 new

Creates the Vehicle Emissions Act. Provides that the Environmental Protection Agency shall adopt and implement emission standards for new vehicles that are 2009 model-year or later for the control of emissions. Sets out a vehicle and engine certification program administered by the Agency. Prohibits the sale or registration in the State of certain vehicles that fail to meet the emission standards of the Act. Sets out special standards for vehicles with on board diagnostic systems. Sets out the procedure for a vehicle manufacturer to appeal the Agency standards. Authorizes the Agency to adopt emission standards for certain motorcycles registered or identified by the Secretary of State. Provides for the certification of school busses. Amends the Illinois Vehicle Code. Provides that nothing in the Chapter 13B of the Code, concerning emission inspection, shall limit the authority of the Agency under the Act. Contains other provisions.

LRB095 09683 CMK 29885 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning vehicles.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Vehicle Emissions Act.

6 Section 5. Definitions. For purposes of this Act:

7 "Agency" means the Illinois Environmental Protection
8 Agency.

9 "Director" means the Director of the Illinois
10 Environmental Protection Agency.

11 "New vehicle" has the same meaning as set out in Section
12 1-148.4 of the Illinois Vehicle Code.

13 Section 10. Environmental Protection Agency authority.

14 (a) The Agency shall adopt and implement emission standards
15 for new vehicles that are 2009 model-year or later for the
16 control of emissions from new vehicles that the Agency finds to
17 be necessary and technologically feasible to carry out the
18 purposes of this Act. Before adopting these standards, the
19 Agency shall consider the impact of these standards on the
20 economy of the State, including, but not limited to, their
21 effect on vehicle fuel efficiency.

22 (b) The standards adopted under this Act may be applicable

1 to vehicle engines, rather than to vehicles.

2 Section 15. Certification.

3 (a) No new vehicle or new vehicle engine shall be certified
4 by the Agency unless the vehicle or engine meets the emission
5 standards adopted by the Agency under Section 5 under test
6 procedures adopted by the Agency under Section 25.

7 (b) For the certification of new vehicles or new vehicle
8 engines, the Agency shall adopt, by rule, test procedures and
9 any other procedures necessary to determine whether the
10 vehicles or engines are in compliance with the emissions
11 standards established under Section 10. The Agency shall base
12 its test procedures on federal test procedures.

13 Section 20. New vehicles.

14 (a) No new vehicle, new vehicle engine, or vehicle with a
15 new vehicle engine required under this Act to meet the emission
16 standards established under Section 10 shall be sold to the
17 ultimate purchaser, offered or delivered for sale to the
18 ultimate purchaser, or registered in this State if the
19 manufacturer has violated emission standards or test
20 procedures and has failed to take corrective action, which may
21 include recall of vehicles or engines, specified by the Agency
22 in accordance with rules of the Agency. If a manufacturer
23 contests the necessity for, or the scope of, a recall of
24 vehicles or engines ordered under this Section and so advises

1 the Agency, the Agency shall not require such recall unless it
2 first affords the manufacturer the opportunity, at a public
3 hearing, to present evidence in support of the manufacturer's
4 objections. If a vehicle or engine is recalled under this
5 Section, the manufacturer shall make all necessary corrections
6 specified by the Agency without charge to the registered owner
7 of the vehicle or vehicle with such engine or, at the
8 manufacturer's election, reimburse the registered owner for
9 the cost of making such necessary corrections.

10 The procedures for determining and the facts constituting
11 compliance or failure of compliance shall be established by the
12 Agency.

13 (b) For all vehicles equipped with on board diagnostic
14 systems and certified in accordance with the test procedures
15 adopted under Section 15, the Agency shall adopt rules that
16 require a vehicle manufacturer to do all of the following to
17 the extent allowed by federal law:

18 (1) Make available, within a reasonable period of time,
19 and by reasonable business means, including, but not
20 limited to, use of the Internet, as determined by the
21 Agency, to all affected persons, the full contents of all
22 manuals, technical service bulletins, and training
23 materials regarding emissions-related vehicle information
24 that is made available to their franchised dealerships.

25 (2) Make available for sale to all affected persons the
26 manufacturer's emissions-related enhanced diagnostic

1 tools, and make emissions-related enhanced data stream
2 information and bidirectional controls related to tools
3 available in electronic format to equipment and tool
4 companies.

5 (3) If the vehicle manufacturer uses reprogrammable
6 computer chips in its vehicles, provide equipment and tool
7 companies with the information that is provided by the
8 manufacturer to its dealerships to allow those companies to
9 incorporate into aftermarket tools the same reprogramming
10 capability.

11 (4) Make available to all affected persons, within a
12 reasonable period of time, a general description of their
13 on board diagnostic systems, which shall contain the
14 information described in this paragraph. For each
15 monitoring system utilized by a manufacturer that
16 illuminates the on board diagnostic systems malfunction
17 indicator light, the vehicle manufacturer shall provide
18 all of the following:

19 (A) a general description of the operation of the
20 monitor, including a description of the parameter that
21 is being monitored;

22 (B) a listing of all typical on board diagnostic
23 systems diagnostic trouble codes associated with each
24 monitor;

25 (C) a description of the typical enabling
26 conditions for each monitor to execute during vehicle

1 operation, including, but not limited to, minimum and
2 maximum intake air and engine coolant temperature,
3 vehicle speed range, and time after engine startup;

4 (D) a listing of each monitor sequence, execution
5 frequency, and typical duration;

6 (E) a listing of typical malfunction thresholds
7 for each monitor;

8 (F) for on board diagnostic system parameters for
9 specific vehicles that deviate from the typical
10 parameters, the on board diagnostic system description
11 shall indicate the deviation and provide a separate
12 listing of the typical value for those vehicles; and

13 (G) the information required by this Section shall
14 not include specific algorithms, specific software
15 code, or specific calibration data beyond that
16 required to be made available through the generic scan
17 tool in federal regulations.

18 (5) Not utilize any access or recognition code or any
19 type of encryption for the purpose of preventing a vehicle
20 owner from using an emissions-related vehicle part with the
21 exception of the powertrain control modules, engine
22 control modules, and transmission control modules, that
23 has not been manufactured by that manufacturer or any of
24 the manufacturer's original equipment suppliers.

25 (6) Provide to all affected persons information
26 regarding initialization procedures relating to

1 immobilizer circuits or other lockout devices to
2 reinitialize vehicle on board computers that employ
3 integral vehicle security systems if necessary to repair or
4 replace an emissions-related part, or if necessary for the
5 proper installation of vehicle on board computers that
6 employ integral vehicle security systems.

7 (7) All information required to be provided to affected
8 persons by this Section shall be provided for fair,
9 reasonable, and nondiscriminatory compensation, in a
10 format that is readily accessible to all affected persons,
11 as determined by the Agency.

12 (c) Any information required to be disclosed under a final
13 rule adopted under this Section that the vehicle manufacturer
14 demonstrates to a court, on a case-by-case basis, to be a trade
15 secret shall be exempt from disclosure, unless the court, upon
16 the request of an affected person seeking disclosure of the
17 information, determines that the disclosure of the information
18 is necessary to mitigate anti-competitive effects. In making
19 this determination, the court shall consider, among other
20 things, the practices of any vehicle manufacturer that results
21 in the fullest disclosure of information listed in paragraph
22 (4) of subsection (a) of this Section. In actions subject to
23 this paragraph, the court shall preserve the secrecy of an
24 alleged trade secret by reasonable means, which may include
25 granting a protective order in connection with discovery
26 proceedings, holding an in-camera hearing, sealing the record

1 of the action, or ordering any person involved in the
2 litigation not to disclose an alleged trade secret without
3 prior court approval.

4 (d) If information is required to be disclosed by a vehicle
5 manufacturer under subsection (c) of this Section, the court
6 shall allow for the imposition of reasonable business
7 conditions as a condition of disclosure, and may include
8 punitive sanctions for the improper release of information that
9 is determined to be a trade secret to a competitor of the
10 manufacturer. The court shall also provide for fair,
11 reasonable, and nondiscriminatory compensation to the vehicle
12 manufacturer for the disclosure of information determined by
13 the court to be a trade secret and required to be disclosed
14 under subsection (c) of this Section. The court shall provide
15 for the dissemination of trade secret information required to
16 be disclosed under subsection (c) of this Section through
17 licensing agreements and the collection of reasonable
18 licensing fees. If the court determines that disclosure of any
19 of the information required to be disclosed under subsection
20 (c) of this Section constitutes a taking of personal property,
21 a jury trial shall be held to determine the amount of
22 compensation for that taking, unless waived by the vehicle
23 manufacturer.

24 (e) The Agency shall periodically conduct surveys to
25 determine whether the information requirements imposed by this
26 Section are being fulfilled by actual field availability of the

1 information.

2 (f) If the Director obtains credible evidence that a
3 vehicle manufacturer has failed to comply with any of the
4 requirements of this Section or the rules adopted by the
5 Agency, the Director shall issue a notice to comply to the
6 manufacturer. Not later than 30 days after issuance of the
7 notice to comply, the vehicle manufacturer shall submit to the
8 Director a compliance plan, unless within that 30-day period
9 the manufacturer requests an administrative hearing to contest
10 the basis or scope of the notice to comply in accordance with
11 subsection (g) of this Section. The Director shall accept the
12 compliance plan if it provides adequate demonstration that the
13 manufacturer will come into compliance with this Section and
14 the Agency's implementing rules within 45 days after submission
15 of the plan. However, the Director may extend the compliance
16 period if the Director determines that the violation cannot be
17 remedied within that period.

18 (g) If the vehicle manufacturer contests a notice to comply
19 under subsection (f) of this Section or the Director rejects
20 the compliance plan submitted by the manufacturer, an
21 administrative hearing shall be conducted by a hearing officer
22 appointed by the Agency, in accordance with procedures
23 established by the Agency. The hearing procedures shall provide
24 the manufacturer and any other interested party at least 30
25 days notice of the hearing. If, after the hearing, the hearing
26 officer appointed by the Agency finds that the vehicle

1 manufacturer has failed to comply with any of the requirements
2 of this Section or the rules adopted by the Agency, and the
3 manufacturer fails to correct the violation within 30 days after
4 the date of the finding, the hearing officer may impose a civil
5 penalty upon the manufacturer in an amount not to exceed
6 \$25,000 per day per violation until the violation is corrected,
7 as determined in accordance with the hearing procedures
8 established by the Agency. The hearing procedures may provide
9 additional time for compliance prior to imposing a civil
10 penalty. If so, the hearing officer may grant additional time
11 for compliance if he or she determines that the violation
12 cannot be remedied within 30 days after the finding that a
13 violation has occurred.

14 (h) The Agency shall, report annually to the General
15 Assembly on the extent to which the implementation of this Act
16 is effective in furthering the intent and policy of this Act.

17 (i) Nothing in this Section is intended to authorize the
18 infringement of intellectual property rights embodied in
19 United States patents, trademarks, or copyrights, to the extent
20 those rights may be exercised consistently with any other
21 federal laws.

22 Section 25. Test engines. Each new vehicle or engine
23 required under this Act to meet the emission standards
24 established under Section 10 shall be, in all material
25 respects, substantially the same in construction as the test

1 vehicle or engine, as the case may be, that has been certified
2 by the Agency in accordance with this Act. However, changes
3 with respect to new vehicles or engines previously certified
4 may be made if the changes do not increase emissions above the
5 standards for those vehicles or engines as certified and are
6 made in accordance with procedures specified by the Agency.

7 Section 30. Motorcycles. The Agency may, by rule, adopt
8 emission standards for 2009 or later model-year motorcycles
9 registered or identified by the Secretary of State that are
10 sold in the State on or after July 1, 2008, or such later date
11 as established by the Agency by rule.

12 Section 35. School busses.

13 (a) In lieu of certification under Section 15, the Agency
14 may certify a new vehicle designed for exclusive use as a
15 school bus, or a new vehicle engine intended for use in a
16 school bus, if the Director has granted a certificate of
17 conformity for the school bus or engine under the federal Clean
18 Air Act (42 U.S.C. Sec. 1857).

19 (b) The Agency shall grant a certification under
20 subsection (a) of this Section only if the manufacturer of the
21 school bus or engine demonstrates that an engine suitable for
22 use in the manufacturer's standard type of school bus which
23 meets the applicable emissions standards established by the
24 Agency under Section 10 is not available for installation.

1 (c) The Agency, prior to granting a certification under
2 subsection (a) of this Section, shall require a showing by the
3 manufacturer of the school bus or engine of a good faith effort
4 to procure or manufacture an engine which meets the standards
5 established by the Agency under Section 10 and, in the case of
6 the school bus manufacturer, a good faith effort to accomplish
7 a school bus redesign to accommodate such an engine. In the
8 absence of these showings, the Agency shall not grant a
9 certification under subsection (a) of this Section.

10 Section 90. The Illinois Vehicle Code is amended by adding
11 Section 13B-80 as follows:

12 (625 ILCS 5/13B-80 new)

13 Sec. 13B-80. Vehicle emissions act. Nothing in this Chapter
14 13B shall limit the authority of the Environmental Protection
15 Agency under the Vehicle Emissions Act.